

# The Elephant in the Auditorium — Big Pharma Profiteering on the Bodies of Children

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Meryl Nass, MD

In her meticulously referenced testimony submitted to the Massachusetts legislature which is considering whether to eliminate religious exemptions from the childhood vaccination schedule, Meryl Nass, MD, board member of the Alliance for Human Research Protection, laid out the facts to refute the Pharma-orchestrated propaganda about vaccines.

First: “there is no crisis (no epidemic of deaths or disabilities) from infectious diseases caused by unvaccinated children, either in Massachusetts or the United States.”

She pointed out that “the elephant in the auditorium today is Pharma profits.” Merck lists on its website over 1,000 candidates for state and federal offices to whom it “contributed” money in 2018. Pharma money purchases the allegiance of our major media corporations: in addition to its expenditure for advertising to consumers — \$6.4 billion —

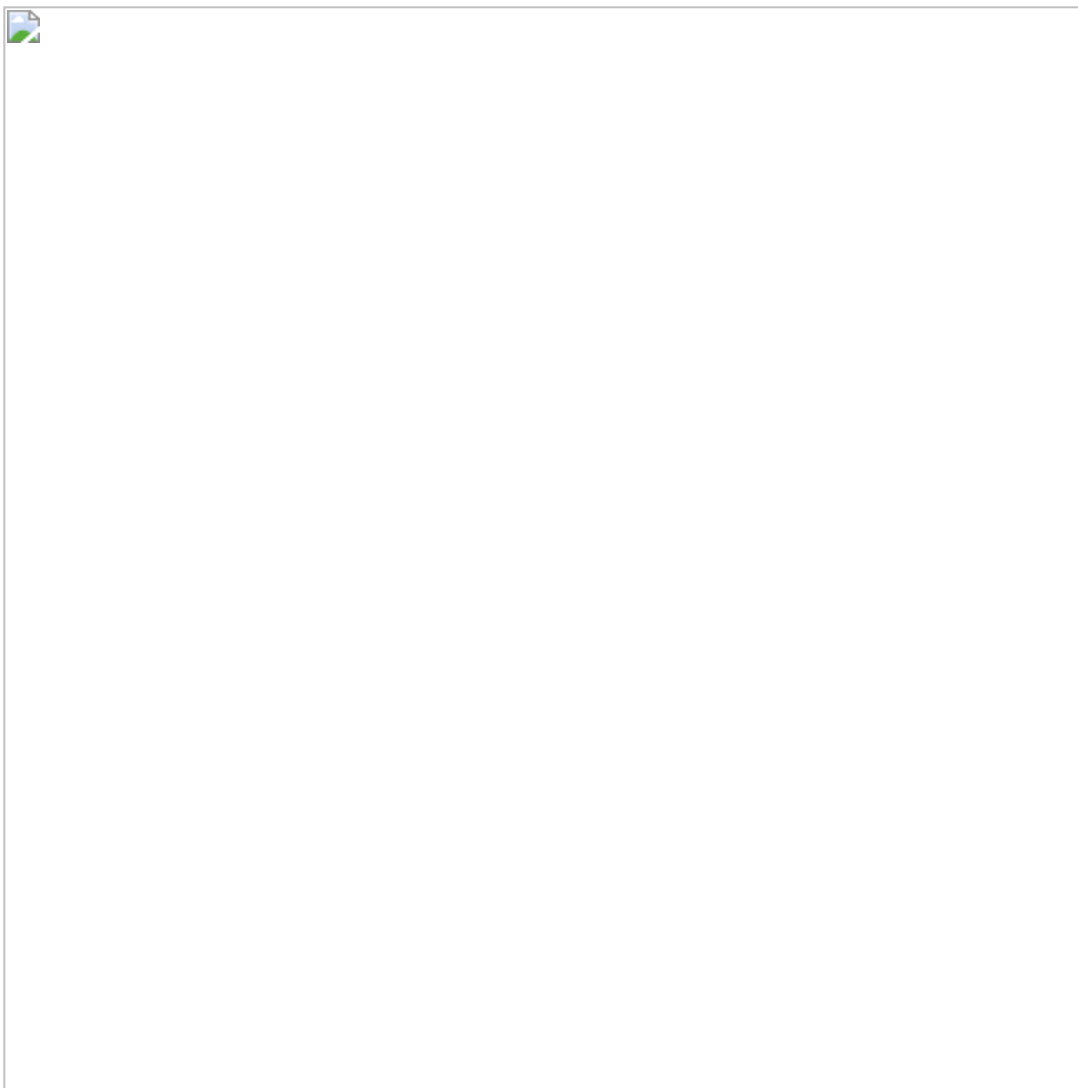
Pharma spent in 2016, Pharma spent \$29.9 billion on medical marketing.

- “Pharma’s latest risky strategy is trying to rid the world of vaccine exemptions, to prevent vaccine opt-outs—before a new crop of vaccines, with inadequate safety and efficacy testing. Vaccines for which Pharma will have no liability once they are placed on the childhood schedule.”

Dr. Nass points out the added danger that government waivers of vaccine liability posed for children.

- “waivers discourage manufacturers from ensuring that the vaccines they sell are as safe and effective as possible. The removal of vaccine exemptions, combined with liability waivers for vaccine side effects and recently loosened standards for licensing vaccines, create a highly toxic mix.”

***“Dare I say out loud that our children’s arms and bodies are the delivery system for transferring money from the citizens of the Commonwealth to the pharmaceutical industry?”***



My name is Dr. Meryl Nass.

- I am an internal medicine physician in Ellsworth, Maine.
- I graduated from MIT and the University of Mississippi School of Medicine.
- I have testified to 6 Congressional committees, primarily on anthrax vaccine and Gulf War Syndrome, and the permanent injuries suffered by service-members who received military vaccines of poor quality.
- I have also testified about the issue of vaccine exemptions to legislative committees in Maine, Vermont and New Brunswick. I saw firsthand how pharmaceutical industry lobbyists patrolled legislative halls, provided talking points, schooled public servants, and helped constrain the terms of this debate.

**The elephant in the auditorium today is Pharma profits. Dare I say out loud that our children's arms and bodies are the delivery system for transferring money from the citizens of the Commonwealth to the pharmaceutical industry?**

The pharmaceutical industry has undertaken a very ambitious campaign to legislate away vaccine exemptions in the United States and Canada. France, Italy and Germany have rescinded vaccine exemptions too, suggesting the campaign is worldwide.

The pharmaceutical industry exerts enormous influence on government regulators,[1] their advisors,[2] [3] professional medical organizations,[4] key opinion leaders[5] and medical journals[6] as well as the mass media and lawmakers.[7] **This is not debatable**[8]—there are dozens of studies proving it. Merck has a list on its website of over 1,000 candidates for state and federal offices to whom they gave money in 2018[9]. Merck also lists payments to hundreds of professional medical organizations, patient organizations, Pharma lobbying groups, and scores of Republican and Democratic PACs and committees.[10] Julie Gerberding, the former CDC Director, became president of Merck Vaccines as soon as she was allowed.[11] The last FDA Commissioner just left for Pfizer.[12] The revolving door is slamming Americans.

Pharmaceutical manufacturers spent \$6.4 billion on direct-to-consumer advertising in the US in 2016, and \$29.9 billion total on medical marketing.[13] **Pharma money purchases the allegiance of our major media corporations, in addition to buying advertising.** And it's tax deductible.

The pharmaceutical industry does not play by the rules you and I must follow. Instead, the industry makes it a rule to break the law, regularly paying civil and criminal penalties in the billions of dollars. Big Pharma CEOs have not been sent to jail in decades, and paying settlements for their illegal behaviors has become simply the cost of doing business.

This is an industry that has thrived by taking big risks—even when manufacturers knew in advance that their products killed. Merck paid out \$4.85 billion to settle 27,000 *Vioxx* injury claims, after it was estimated the drug caused 38,000 deaths from heart attacks.[14] But annual sales had topped \$2.5 billion/year, likely leading them to at least break even.

According to Public Citizen:

*“From 1991 through 2015, a total of 373 settlements were reached between the federal and state governments and pharmaceutical manufacturers, for a total of \$35.7 billion.”*

**Pharma’s latest risky strategy is trying to rid the world of vaccine exemptions, to prevent vaccine opt-outs—before a new crop of vaccines, with inadequate safety and efficacy testing,[15] and for which they will have no liability once placed on the childhood schedule, are approved.**

I doubt this is what you have been told. But the industry moves deliberately, one step at a time. First it got the *21st Century Cures Act* passed, in November 2016. This Act:

- directed the FDA to more readily license vaccines, using “real world evidence” in place of randomized, controlled clinical trials.
- directed CDC to immediately place each newly licensed vaccine before its advisory committee, to be considered for inclusion in the childhood vaccine schedule. *Inclusion in the schedule is the criterion needed to get a vaccine its waiver of manufacturer liability.*
- directed that all vaccines recommended for use in pregnant women (currently influenza and Tdap, but many more are in the pipeline) were granted liability waivers.

Getting a vaccine approved for use during pregnancy is the newest Pharma gold rush. This despite evidence[16] [17] (which CDC disputes) that flu vaccine is associated with a doubling of miscarriage rates, and evidence that anthrax vaccine increases the miscarriage rate.[18] Neither flu nor Tdap vaccines were tested and approved by FDA for use in pregnancy. According to the WHO[19]:

*“...pre-licensing clinical trials of vaccines do not usually include pregnant and lactating women. Reports available also provide limited post-licensing data, as once again, pregnant women are usually not included in clinical trials. This in turn has limited the ability to make evidence-based decisions and provide optimal guidance on the use of vaccines in this population.”*

Despite this, pregnant women are being told to receive both flu and Tdap vaccines during every pregnancy. Don’t you see something sick in this?

The year-long media blitz over measles didn’t only usher in bills to remove vaccine exemptions. It was also a bonanza for sales. Merck, which makes the only measles vaccines in the US, saw sales of its MMRV vaccine increase 58% in 2019.[20]

It has been claimed that vaccines are, by nature, extremely safe. Yet vaccines are usually injected, bypassing all the body’s natural barriers. Even minute contamination or inadequate microbial inactivation can maim or kill. Contaminated batches of vaccine do occur.[21] Usually contaminated lots are discarded, but in the case of anthrax, polio and other vaccines, millions of doses were used.[22] [23]

Vaccines have caused many autoimmune disorders, from Guillain-Barre syndrome to narcolepsy. (Both were side effects of swine flu vaccines used in the 2009 pandemic.)

Vaccines appear safe because the immediate side effects are usually mild and temporary. Serious vaccine side effects often take weeks or months to surface, and by then it is difficult to know what caused them. Only when vaccinated individuals have rates of illness at least 10 times higher than the unvaccinated, is the side effect likely to be linked to the vaccine.

A 2009 European swine flu vaccine (GSK’s *Pandemrix*) caused over 1300 cases of severe narcolepsy, mostly in adolescents. [24] This vaccine was linked to narcolepsy because *15 times* the usual number of narcolepsy cases suddenly appeared in clinics. Countries that bought the swine flu vaccines, through WHO, were required to waive manufacturer liability as a condition of purchase. Litigation by those injured continues to be active in the UK, where both the manufacturer and the UK government deny any responsibility for injuries.

- **It should be apparent, but isn’t: government waivers of vaccine liability discourage manufacturers from ensuring that the vaccines they sell are as safe and effective as possible.**
- **The removal of vaccine exemptions, combined with liability waivers for vaccine side effects and recently loosened standards for licensing vaccines, create a highly toxic mix.**

1. **There is no crisis (no epidemic of deaths or disabilities) from infectious diseases caused by lack of vaccinations, either in Massachusetts or the United States.**
2. According to the CDC, vaccination rates in the Commonwealth are consistently better than the US average. Over 96% of Massachusetts children have been vaccinated with each of the MMR, DTaP and Polio vaccines before kindergarten.  
[25] Only pertussis regularly circulates, due to failure of the vaccine.
3. While measles made major headlines in the US all year, the last time a child died from measles in the US was 2003. The child who died had had a bone marrow transplant 3 months earlier. He was not exposed to anyone with measles, and may have developed measles from a live vaccine.
4. The US averages several hundred measles cases annually, mostly due to travelers who enter the US while incubating the disease. It has never been totally eradicated.
5. Massachusetts had 1 measles case in 2019.
6. There may be a million cases of pertussis in the US yearly, because the vaccine works poorly and wears off quickly. Only a fraction of cases are diagnosed and counted. Studies show that most cases of pertussis occur in fully vaccinated [26]
7. Therefore, you cannot achieve herd immunity for pertussis with current vaccines. The pertussis bacteria regularly circulate, as they would even with a 100% vaccination rate.
8. There are about 10 pertussis deaths in the US yearly, mostly in infants too young to be vaccinated. Vaccinating 100% rather than the current 96.4% of Massachusetts children for pertussis would not prevent pertussis deaths.
9. There are approximately 2500 mumps cases in the US yearly, but according to CDC no recent mumps deaths. [27] Two doses of vaccine are only about 86% effective. [28] Most mumps cases occur in vaccinated students.
10. There are approximately 10 rubella cases yearly in the US, but since 2012 all cases were infected outside the country. [29]
11. There have been no wild polio cases originating in the US since 1979. However, cases of polio due to live polio vaccine viruses (or their mutations) would occasionally occur. This led to the US switching to killed, injected polio vaccines (Salk, not Sabin type) after 1999.
12. Between 2004 and 2017, only 2 diphtheria cases were reported in the entire US.
13. *Varicella zoster* causes chickenpox and shingles. Once infected (or vaccinated with live vaccine) the virus permanently resides in your body. Thus, it cannot be eliminated from the population using current, live vaccines. The vaccine is about 85% effective. Many countries, including the UK, do not recommend it.
14. Most varicella cases occur in vaccinated
15. However, there are highly effective treatments for varicella. While varicella infections are common in immunocompromised children, usually due to virus already in their bodies, there is only about 1 child death per year from varicella in the US.
16. Tetanus does not spread from person to person. It is caused by *Clostridium tetani* bacterial spores in the outdoor environment. There are about 30 cases per year in the US.
17. Hepatitis B is a viral infection that can only be spread through blood or sexual contact. Rates of infection in childhood are extremely low in the US. There is one new case reported per 100,000 Americans/year. [30]
18. All pregnant women are screened for hepatitis B. The few who are positive are treated, and their newborns treated prophylactically.
19. Neither tetanus nor hepatitis B can be spread by casual contact. Neither can spread from child to child during ordinary school activities.

To summarize, below are all the currently required vaccines for Massachusetts schoolchildren, and the risks related to the diseases they can prevent. It should be obvious that increasing 96-97% vaccination rates another 2% or 3% will have a negligible effect on these illnesses:

- **Diphtheria—extremely rare**
- **Tetanus—non-communicable**
- **Pertussis—regularly circulates despite vaccinations**
- **Measles—rare, death extraordinarily rare** [31]
- **Mumps—several thousand cases/year in US, no recent deaths**
- **Rubella—no cases of US origin in recent years**
- **Varicella—can circulate despite vaccination, kills 1 highly compromised child/year in US**
- **Hepatitis B—non-communicable in school**
- **Polio—no cases originating in the US for decades**

On the other hand, vaccine injuries are not trivial. Most serious vaccine injuries involve autoimmune illnesses and/or neurological injuries that affect personality and intelligence. While I cannot tell you the rate at which these injuries occur, because the medical literature is inconsistent, they are not rare. You probably know a family with a vaccine-injured member.

Were the Legislature to remove most vaccine exemptions, it would probably not prevent a single death from infection, and prevent only a modicum of illness. However, significant vaccine injuries would almost certainly occur in currently exempted children.

### 3. Proportionality, the Supreme Court and Vaccine Mandates

The seminal Supreme Court case regarding a state or municipality's authority to institute a mandatory vaccination program is *Jacobson v Massachusetts*. While this 1905 Supreme Court decision upheld the right of Cambridge, MA to impose smallpox vaccination on adults over 21 during a smallpox epidemic, according to the Congressional Research Service, the Court "did acknowledge limits to the state's power to protect the public health, and set forth a reasonableness test for public health measures:

*[I]t might be that an acknowledged power of a local community to protect itself against an epidemic threatening the safety of all, might be exercised in particular circumstances and in reference to particular persons in such an arbitrary, unreasonable manner, or **might go so far beyond what was reasonably required for the safety of the public**, as to authorize or compel the courts to interfere for the protection of such persons."*[32]

Furthermore, the penalty Jacobson paid was \$5.00—or about \$150 today. He was not forced to be vaccinated, even when smallpox had a 30% mortality rate. He paid a reasonable fine.

In the bills we are discussing today, the penalty for refusing vaccinations is insuperably harsh. The value of an education to a family is incalculable, but might be valued in the hundreds of thousands of dollars.[33]

In US law, the doctrine of proportionality means that the punishment should fit the crime.[34] In the *Jacobson* case, the punishment for remaining unvaccinated was about \$150, not the \$150,000 or more cost of an education. As for the bills under discussion today, don't they, as the Supreme Court noted, "*go so far beyond what was reasonably required for the safety of the public...*" — suggesting the courts should interfere to protect the unvaccinated? If versions of these bills pass, won't the Commonwealth become entangled in litigation over them for years to come?

#### **4. Parallel with the effort to end non-medical vaccine exemptions is a major federal/state effort to restrict medicalexemptions.**

- The CDC recently revised its advice on vaccine exemptions, significantly reducing the list of conditions for which vaccinations might be dangerous.[35] [36]
- The CDC also issued revised "Vaccine Information Statements" in August and October 2019,[37] which must be given to parents before their child is vaccinated, according to federal law.
- The new Vaccine Information Statements removed the statement, "Some people should not get this vaccine"; removed many reasons not to vaccinate; and removed information on adverse vaccine reactions.
- I am providing you with the old and new polio Vaccine Information Statements so you can see this for yourself
- The intention is to both restrict and federalize the granting of medical exemptions for vaccines.
- Proposed laws would have state health department employees issue medical exemptions for patients they have never seen, using suddenly appearing CDC guidelines which lack supporting evidence — usurping the role of physicians in determining eligibility to be safely vaccinated.

#### **5. The bedrock expectation of medical ethics is that patients must give informed consent for all medical procedures, including vaccines.**

Informed consent means that patients must be informed about the procedure, have the right to refuse, and may not be coerced to accept it. Isn't withholding an education an extreme form of coercion?

Without any discussion of its moral or ethical dimensions by media, medical societies or government officials, the requirement for informed consent for medical procedures, including vaccinations, vanishes in the blink of an eye when patients are not allowed the right to refuse.

#### **6. Must the issue of childhood vaccine exemptions be politicized?**

- Both political parties enjoy Pharma's largesse. In other states, party leadership has corralled Members and Senators in order to push through legislation to rescind and tighten vaccine exemptions, despite constituent opposition. Will this happen in Massachusetts?
- Please weigh carefully the risks to society against the risks to vulnerable children whose parents have decided not to fully vaccinate them.
- Please consider the damage such a law would make to our right to bodily autonomy and to informed consent.
- Eliminating the right to refuse vaccinations places us on a very slippery slope.
- Please do not allow yourselves to do the dirty work of Pharma, unscrupulously couched as an effort to protect vulnerable citizens.
- If passed, these bills will harm far more vulnerable citizens than they help.

Thank you very much for your consideration. I would be happy to answer your questions or provide additional documentation for any of these points.

[1] <https://www.sciencemag.org/news/2009/12/mercks-new-vaccine-honcho-former-cdc-chief-gerberding>



[2] <https://www.sciencemag.org/news/2018/07/hidden-conflicts-pharma-payments-fda-advisers-after-drug-approvals-spark-ethical>

[3] <https://www.nytimes.com/2009/12/18/health/policy/18cdc.html>

[4] <http://politicalcorrection.org/factcheck/200906110008>

[5] <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4500705/>

[6] <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2964336/>

[7] <https://khn.org/news/drugmakers-funnel-millions-to-lawmakers-a-few-dozen-get-100000-plus/>

[8] <https://www.nap.edu/read/12598/chapter/1>

[9] <https://s3.amazonaws.com/msd19-assets/wp-content/uploads/2019/09/13122047/US.pdf>

[10] <https://www.msdrresponsibility.com/reporting/transparency-disclosures/>

[11] <https://www.mrknewsroom.com/news-release/corporate-news/merck-announces-appointment-dr-julie-gerberding-executive-vice-president>

“Gerberding joined Merck as president of Merck Vaccines in January 2010. Since then, Merck’s vaccines are reaching more people than ever, and Merck became the global leader in the vaccine market based on sales. In addition, the Sanofi Pasteur MSD joint venture in Europe, Merck’s European vaccine business for which Gerberding is the Board co-chair, has improved in both population reach and financial performance. She also helped lead the successful launch in India of the Merck Wellcome Trust non-profit joint venture for vaccine development”

[12] <https://thehill.com/blogs/congress-blog/politics/452654-for-big-pharma-the-revolving-door-keeps-spinning>

[13] <https://jamanetwork.com/journals/jama/fullarticle/2720029>

[14] <https://bangordailynews.com/2019/03/28/opinion/contributors/why-americans-dont-trust-vaccine-makers/>

[15] <https://ccl.yale.edu/sites/default/files/files/Avorn%20Kesselheim%20-%20NEJM%20-%2021st%20Century%20Cures%20Act.pdf>

The 21st Century Cures Act — Will It Take Us Back in Time? Jerry Avorn and Aaron Kesselheim. NEJM 6/3/2015.

[16] <http://www.cidrap.umn.edu/news-perspective/2017/09/study-signals-association-between-flu-vaccine-miscarriage>

[17] <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6501798/>

[18] [https://anthraxvaccine.blogspot.com/2009/04/2008-naval-environmental-health-center\\_6897.html](https://anthraxvaccine.blogspot.com/2009/04/2008-naval-environmental-health-center_6897.html)

[19] [https://www.who.int/vaccine\\_safety/publications/safety\\_pregnancy\\_nov2014.pdf](https://www.who.int/vaccine_safety/publications/safety_pregnancy_nov2014.pdf)

[20] <https://investors.merck.com/news/press-release-details/2019/Merck-Announces-Second-Quarter-2019-Financial-Results/default.aspx>

[21] <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC523142/>

Owen Dyer. *BMJ*. 2004 Oct 16; 329(7471): 876. Factory’s loss of license halves supply of flu vaccine to US.

[22] <https://www.congress.gov/congressional-report/106th-congress/house-report/556/1>

[23] <https://www.cdc.gov/vaccinesafety/concerns/concerns-history.html>

[24] <https://science.sciencemag.org/content/349/6243/17.summary>

[25] 2017-2018 Kindergarten Vaccination and Effective Exemption Rates. CDC—accompanies document

[26] <https://www.cdc.gov/mmwr/volumes/67/rr/pdfs/rr6702a1-H.pdf>

[27] <https://www.cdc.gov/mumps/hcp.html>

[28] <https://www.ncbi.nlm.nih.gov/pubmed/24252695>

[29] <https://www.cdc.gov/rubella/about/in-the-us.html>

[30] “Selected nationally notifiable disease rates and number of new cases: United States, 2016”—accompanies text

[31] <https://www.massafp.org/latest-news/measles-in-massachusetts-2019-summary-to-date-and-new-measles-resources/trainings>

[32] <https://fas.org/sgp/crs/misc/RS21414.pdf>

Mandatory Vaccinations: Precedent and Current Laws. Congressional Research Service. Jared P. Cole Legislative Attorney  
Kathleen S. Swendiman Legislative Attorney. May 21, 2014

[33] <http://profiles.doe.mass.edu/statereport/ppx.aspx>

[34] [https://en.wikipedia.org/wiki/Proportionality\\_\(law\)](https://en.wikipedia.org/wiki/Proportionality_(law))

[35] <https://www.cdc.gov/vaccines/hcp/acip-recs/general-recs/contraindications.pdf#page=5>

[36] <https://www.cdc.gov/vaccines/hcp/acip-recs/general-recs/contraindications.html>

[37] <https://www.cdc.gov/vaccines/hcp/vis/what-is-new.html#vis-10-30-19>